

Ask the Observer

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Question: I am a domestic employee, and I do not have a visa. My employer will be travelling to the United States in May and would like me to join her so that I can help take care of the children while she is on vacation. I also look forward to seeing the United States, which is something I have always wanted to do. Can you please explain the domestic employee visa? What will I need to bring with me to my interview in order to be issued such a visa?

Answer: An applicant who is employed as a domestic employee and needs to travel to the United States with his/her employer as part of the applicant's job must apply for a Visitor's Visa for Business (B-1). This visa permits the domestic employee to continue to work for the employer while the employer is temporarily visiting the United States.

If you decide to apply for a domestic employee visa, meeting the requirements of the visa is solely your responsibility. An employer does not apply for the visa for their domestic employee, nor does the employer attend the employee's visa interview.

What employers are eligible to bring a domestic employee?

The employer can be either a U.S. citizen or a non-U.S. citizen. However, even if the employer is a U.S. citizen, this type of visa cannot be issued to a domestic employee whose employer intends to reside permanently in the United States. If the employer is not a U.S. citizen, then he/she must also have a valid visa to enter the United States or be eligible to enter the United States under the Visa Waiver Program. Most importantly, the domestic employee visa does not permit the employee to travel to the United States without their employer.

What will I need to bring to my interview?

In addition to the regular visa application package (valid passport, printed application or electronic application form DS-160 confirmation page, receipt showing payment of visa application fee, photographs), the domestic employee must bring certain additional documentation to their visa interview.

- A travel document for the employer that shows the employer has permission to visit the United States;
- Current bank statement(s) from the employer that demonstrate the employer's ability to pay the domestic employee; and

- A valid employment contract showing the work to be performed and the wage to be paid. The contract also has to contain specific information, which is discussed in more detail below.

At your interview, the officer will ask about your proposed travel itinerary, the details of your contract, and your employment situation. This can include questions about where you will stay or visit, what your normal salary and expenses are, and how long you have worked for your current employer. Again, keep in mind that an application for a domestic visa permits you to enter the United States with your employer; anyone wishing to travel alone to the United States for pleasure should apply for a B1/B2 Visitor's Visa.

What are my rights while I am working in the United States?

Under U.S. law, domestic employees have the right to be treated and paid fairly and to not be held in a job against their will. To this end, any valid employment contract must meet certain requirements, and a visa cannot be issued if the following provisions are not included in the contract:

- An agreement by your employer not to keep your passport, employment contract, or other personal property from you;
- An agreement by your employer to abide by all laws in the United States;
- A description of your work duties and weekly hours worked; and
- An explanation of how much you will be paid for your work. (Please note that all domestic employees in the United States are entitled to earn the minimum or prevailing wage required by the city or state in which they will be working. The consular officer can provide you this information at your interview, based on your stated destination, if you do not have it beforehand.)

When you come in for your visa interview, a consular officer will confirm that your contract complies with U.S. law. If it does not, you and your employer will be required to sign a new contract that meets all the above requirements. If, once you have arrived in the U.S., your employer does not abide by the terms of the contract, you can seek help by calling 911, the National Human Trafficking Resource Center (1-888-373-7888), or the Trafficking in Persons and Worker Exploitation Task Force Complaint Line (1-888-428-7581). They can help refer you to a local organization that helps victims of human trafficking in your area.

Are there any limitations on my domestic visa?

The B1 domestic visa is a special visa designed for employees to be able to travel to the United States with, and work for, their employers. It is intended for you to accompany your employer on short trips for temporary stays in the United States. If a consular officer determines that you qualify for the B1 domestic visa, you will be issued a limited validity visa, which will be annotated to show that you are permitted to travel with your employer. Your visa validity will be set by the consular officer, and will most likely match the term of your current contract with your employer. Again, this visa is designed for travel with your employer, so if you wish to travel alone for vacation, you should consider applying for a B1/B2 visa. As with all other applicants, the ultimate decision to issue a visa is based on a consular officer's level of confidence that you will abide by the terms of the visa and use it for the purposes intended.

Please note that the U.S. Embassy is in the process of transitioning to a new electronic application form, the DS-160. This internet-based form will be required for all nonimmigrant visa interviews beginning March 24, 2010. Until that time, we will continue to accept printed application forms. Information on how to apply for a visa, including information about the new DS-160 form, can be found on our website, www.kingston.usembassy.gov.